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FURTHER REPORT ON THE SITUATION OF HUMAN RIGHTS IN CROATIA PURSUANT TO SECURITY COUNCIL RESOLUTION 1019 (1995)

I. INTRODUCTION

1. The present report provides updated information to the Security Council on the situation of human rights in Croatia, with specific reference to the progress of measures taken by the Government of the Republic of Croatia to implement Security Council resolutions 1009 (1995) and 1019 (1995) and presidential statement S/PRST/1996/48 of 20 December 1996. Those resolutions followed Croatia's military recovery of control in May and August 1995 of formerly Serb-controlled areas of its territory, located in the Western Slavonia and Krajina regions, which had been designated United Nations Protected Areas (UNPAs) and were known as Sectors West, North and South.

2. In resolutions 1009 (1995) and 1019 (1995), the Security Council demanded of the Government of Croatia that it respect fully the rights of the local Serb population in the former Sectors, including the right to remain, leave or return in safety, take urgent measures to put an end to all violations of international humanitarian law and human rights in the areas and investigate all reports of such violations so that those responsible could be judged and punished. In its presidential statement of 20 December 1996, the Security Council, inter alia, acknowledged notable progress in the humanitarian situation in those regions. Concerning the right to personal security, the Council observed that, while the security situation had improved slightly, there remained cause for concern about continued acts of harassment, looting and physical attacks against Croatian Serbs and, in particular, about involvement by Croatian uniformed military and police officials in a number of those incidents.

3. The present report considers further developments since my last report of 5 November 1996 (S/1996/1011 and Corr.1) up to late February 1997. The report is based on information compiled by the field operation of the United Nations High Commissioner/Centre for Human Rights in the former Yugoslavia, and from various other sources, including the Office of the United Nations High Commissioner for Refugees (UNHCR), the Office of the Prosecutor of the International Tribunal for the former Yugoslavia, the monitoring mission of the Organization for Security and Cooperation in Europe (OSCE), the European Community Monitoring Mission (ECMM), and the International Committee of the Red Cross (ICRC). The report takes into account several aide-mémoires and other

documents and information provided by the Government of Croatia over the last year, including an aide-mémoire dated 28 February 1997, received just before the present report went to print. Additional information has been received from local and international non-governmental human rights organizations active in Croatia, including the Croatian Helsinki Committee; the Dalmatian Solidarity Committee (DOS); Homo; the Committee for Human Rights in Karlovac and Pakrac; the Serbian Democratic Forum; the Anti-War Campaign, Croatia; and Papa Giovanni XXIII.

II. HUMAN RIGHTS VIOLATIONS AND MEASURES TAKEN BY THE GOVERNMENT

4. Throughout the former Sectors, but particularly in the area of former Sector South around Knin, Croatian Serbs continue to live in conditions of serious insecurity. Incidents of looting and harassment remain common, attributed mostly to recent Croat settlers in the area and persons crossing the nearby border with Bosnia and Herzegovina. Croatian police authorities continue to be ineffective in restoring security. The majority of reported incidents involve acts of petty crime, such as the theft of livestock and intimidation in the form of threats and unlawful entry onto property. Since many elderly Serbs in the area lack means of communication, they feel they have little defence against these incursions and live in a constant state of fear. It should be noted that the security situation in Western Slavonia (former Sector West) is generally more favourable than that in former Sectors North and South.

5. Typical recent incidents have included, in late December 1996, two break-ins of a home belonging to an elderly Serb woman in Ocestovo (former Sector South); the thieves stole furniture and other belongings and told the woman to leave Croatia. On 16 January 1997, thieves using a vehicle without licence plates took windows and building material from several homes in Backonje (former Sector South); the crime was repeated the next day in the village of Radosi. On 30 January 1997, in Ivosevci, thieves took several dozen sheep from an elderly Serb couple. One of the perpetrators, a uniformed man with a shaved head, reportedly made physical threats against the victims. Several acts of theft and harassment have been reported in 1997 in the Plavno valley outside Knin, a location which observers note could be protected by a single police vehicle stationed along the only road leading into the area. It was also reported that one day after the Special Rapporteur on Human Rights in the former Yugoslavia, Ms. Elisabeth Rehn, visited Knin, the community of elderly Serbs in the Plavno valley was repeatedly harassed and their properties looted.

6. Among the most serious criminal acts committed recently was a "booby-trap" incident recorded in the village of Josani, Korenica municipality, on 11 January 1997. As reported by OSCE monitors, a Serb man was injured when he attempted to move a piece of roofing material - a "salonit plate" - from the dirt road leading to his house, detonating a grenade-like device which had been hidden underneath it. Neighbours (Croatian Serbs who had returned from the Federal Republic of Yugoslavia in 1996 and who have been threatened by local Croat residents) had noted that the plate had been moved earlier onto the road, but had avoided touching it. The victim suffered injuries to his leg and hip, and his car sustained material damage. Local police informed OSCE that their investigation was continuing but no results have been reported to date. In

another case of violence noted by OSCE, grenades were thrown on four separate occasions in January and February 1997 into the house of a recent Croatian Serb returnee in the village of Biskupija, near Knin.

7. In contrast to the assessment of most international observers that security measures have been inadequate, the Croatian Government maintains that it has deployed the necessary number of police officers to the former Sectors and that they are doing their best to ensure general safety in the region. According to the Government's aide-mémoire of 20 February 1997, "statistics show that safety in these areas is rapidly improving, closely approaching the conditions in the rest of Croatia's territory, which, by the way, prove to be better than in most European countries". The Government advises that it has dealt with 41 murder cases in which 67 persons were murdered between 4 August 1995 and 31 December 1996.[1] Of these cases, the Government reports that 21 cases involving the deaths of 41 persons were solved, and 33 persons were reported to the competent judicial authorities. In the same period, the police recorded 68 robberies, of which 40 cases were solved and 81 culprits reported, according to the Government.

8. It should be noted that the killing on 11 September 1996 of an elderly couple of mixed marriage at Bukovica, Municipality of Gvozd, described in my previous report to the Council (S/1996/1011 and Corr.1, para. 6) was resolved by Croatian police authorities with the arrest of two individuals two weeks after the crime. However, the Government has provided no new information concerning three unresolved massacres occurring at Gosic, Varivode and Grubori in the weeks after the August 1995 military operations, in which a total of 21 persons were killed. In the Grubori case, in which five people died, United Nations observers had reported the presence of Croatian special police forces in the hamlet at the time of the killings, on 25 August 1995.

9. Finally, concerning the issue of personal security in the former Sectors, mention should be made of reports which continue to be received from intergovernmental organizations as well as international and local non-governmental human rights organizations (NGOs) that their activities are closely monitored by surveillance units believed to belong to Croatian police authorities. Workers from these organizations report that they are frequently followed, in some cases by marked police vehicles and in others by persons travelling in unmarked cars. In previous reports of the Secretary-General, incidents were described in which human rights workers were the victims of physical attacks by unknown persons. Another such incident occurred in Split on 9 December 1996, when a foreign national working for a local human rights NGO was assaulted and severely beaten by a neighbour, who accused her of spying against Croatia.

III. HUMANITARIAN AND ECONOMIC SITUATION

10. International humanitarian organizations working together with the Croatian Government and the Croatian Red Cross in the context of the Government's "Let's Save Lives" programme have been generally successful during the current winter in meeting the most urgent humanitarian needs of isolated individuals living in the former Sectors, particularly elderly Croatian Serbs. It has been emphasized

by numerous sources that without the efforts of international organizations, including UNHCR, ICRC, the International Federation of Red Cross and Red Crescent Societies (IFRC), ECMM, the United Nations Children's Fund (UNICEF), CARITAS, Equilibre and other agencies, the lives of residents in the region would have been truly at risk. Funding is needed urgently in the coming months to ensure that humanitarian programmes continue until the social and economic situation in the former Sectors improves.

11. Virtually all of the approximately 10,000 Croatian Serbs left behind in the former UNPAs following the exodus of 1995 have now reportedly received Croatian citizenship documents and related benefits, including pension rights. Concern has been expressed, however, about the vulnerability of these people, since many live in isolated areas and have difficulty travelling to population centres to receive needed services. Transport is currently provided by international and local agencies, but such support will not continue indefinitely. It is generally agreed that the situation would best be improved by the return of younger family members, but the return clearance process by the Croatian Office of Displaced Persons (ODPR) has been slow (see paras. 14-21 below).

12. Some progress in the restoration of basic infrastructure, particularly electricity supplies, has been noted in recent months in the former Sectors. Other necessities, including telephone and transport services, remain to be addressed. Imbalances continue to be noted between reconstruction assistance provided to communities populated by recent Croat settlers, mostly refugees from Bosnia and Herzegovina, and that given to villages inhabited predominantly by remaining Croatian Serbs.

13. All residents of the former Sectors, Croats and Serbs alike, continue to suffer seriously from the region's economic devastation. Employment is extremely difficult to find. The Government has stated that Croatia's high unemployment rate is attributable in large part to the destruction caused by the war, in particular of industrial facilities and infrastructure. The Government maintains that the country's labour law clearly prohibits discrimination on various grounds, including national origin. In 1996, the Croatian Employment Office issued 2,417 work permits to non-Croats who were not citizens of Croatia. While unemployment among non-Croats remains high, especially in the former Sectors, the Government asserts that joblessness should not be attributed to applicants' national origins.

IV. RETURN OF CROATIAN SERB REFUGEES AND DISPLACED PERSONS

14. It will be recalled that as many as 200,000 Croatian Serbs fled to the Federal Republic of Yugoslavia and Bosnia and Herzegovina following Croatia's military actions in former Sectors West, North and South in the summer of 1995. According to the latest information provided by the Government in its aide-mémoire of 28 February 1997, 14,459 persons have received authorization to return to Croatia. International observers, however, believe that fewer than 3,000 of these persons have returned to their homes in former Sectors West, North and South, most of them to former Sector West. They attribute the low number mainly to a lack of secure conditions, though the Government emphasizes the prevailing poor economic situation.

15. For its part, UNHCR has only been able to facilitate the return of some 550 Croatian Serb refugees from the Federal Republic of Yugoslavia to Croatia since June 1996. The agency is attempting to address the plight of elderly Serbs who remained in the former Sectors following the exodus of 1995 by seeking clearance from the Croatian ODPR for the return of younger relatives. The EVI project (for "extremely vulnerable individuals") has met with little success owing to the slow pace of the Government's response. As from 1 February 1997, ODPR has cleared only 3 per cent of the potential returnees submitted for clearance, and 70 per cent of the total submission has remained pending for more than three months.

16. According to data from the population census of refugees in the Federal Republic of Yugoslavia, of some 337,000 Croatian refugees now in the Federal Republic of Yugoslavia, roughly 35,000 (roughly 10 per cent) have expressed an interest in returning immediately to Croatia. It is believed, however, that this number would increase if conditions of personal and economic security for Croatian Serbs in the former Sectors were to improve. For Croatian refugees in the Federal Republic of Yugoslavia who do not have Croatian documents, the only possibility for return is through "family reunification". As yet there is no possibility for these persons to obtain Croatian documents from the Croatian embassy in Belgrade. Thus, for persons without documents or relatives in Croatia, return remains impossible.

17. Croatian Serb returnees to the former Sectors are joining the roughly 10,000 Serbs (mostly elderly persons) who remained in the area after the military operations of 1995. As noted in previous reports, more than 50,000 Croat displaced persons from elsewhere in the country and Croat refugees from Bosnia and Herzegovina and the Federal Republic of Yugoslavia have meanwhile been resettled in the former Sectors since early 1996. Many of these persons are occupying houses belonging to Croatian Serbs, and reports continue to indicate that returning Serbs encounter great difficulty in obtaining Government help to regain access to their properties.

18. The question of property is governed principally by two pieces of legislation. Under the Law on Lease of Flats in the Liberated Territory (passed in September 1995), rights to rented flats were lost irrevocably if departed tenants had not reclaimed them by 27 December 1995. Many Croatian Serbs lost their socially owned apartments in the former Sectors in this way. As for houses, the Law on Temporary Taking-Over and Administration of Specified Property placed abandoned properties under State administration. Many homes were given over to newly arrived Croat settlers, and the law provides that they may not be dispossessed of the properties until proper alternative accommodation is found. In practical terms, this has resulted in few Croatian Serb refugees regaining access to their homes. Many cases of Croatian Serbs caught in this predicament have been reported to international observers, and little if any corrective action has been taken by the Government through the local housing commissions, effectively leaving hundreds of Croatian Serbs homeless. In numerous cases, commissions have been reported to be dismissive and even hostile to Croatian Serbs seeking to reclaim their homes, as in one case reported from former Sector North in which a woman was told she would get her house back "in 50 years". In the few cases in which returning Croatian Serbs have been reinstated in their houses, they are reported to have been helped more by the

cooperative attitudes of the Croat settlers occupying them than by the local housing commissions.

19. The Agreement on Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia, signed at Belgrade in August 1996, committed the Parties (in article 7) to ensuring to returning refugees and displaced persons "the return of their property or a just compensation". Although the Government has advised that a bilateral commission was established with the task of implementing these provisions, no progress on the issue has been observed thus far.

20. Officials serving with the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) have emphasized the importance of resolving return and property questions in former Sectors West, North and South as a prerequisite to the successful implementation of the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium (S/1995/951, annex). It is evident that the return of Croat displaced persons to Eastern Slavonia will depend greatly on the ability of displaced Serbs living there at present to return to their former homes elsewhere in Croatia. While a small number of inspection visits organized by UNHCR and UNTAES to the former Sectors have taken place successfully, there have in fact been few returns. A pilot return project to the villages of Kusonje and Brusnik in former Sector West, for example, has yet to be implemented.

21. As noted in my previous report on this subject, the imbalance between the number of remaining and returning Croatian Serbs and the number of resettled persons of Croat national origin in the former Sectors appears likely to change the demography of the former Sectors, perhaps irrevocably. Although the Government still insists upon its commitment to the return process, the President of the Republic stated in an address to the Parliament on 22 January 1997 that: "Those who left are the people who responded en masse to the call of their terrorist leaders and left Croatia in an organized way and of their own free will. These facts seem to be deliberately ignored by some international circles which reproach Croatia for the slow return of Serbs to Croatia. The underlying reason is that only a few of them want to live in the free, sovereign and democratic State of Croatia. Between Croatia and Serbia they opted for Serbia, and these are therefore citizens who have voluntarily decided where they want to live." Such public remarks and official disposition, as well as developments on the ground have led some observers to question the sincerity of the Government's commitment.

V. DETENTION AND THE QUESTION OF AMNESTY

22. As noted in previous reports, a general amnesty law approved by the Parliament of Croatia entered into force on 3 October 1996. The legislation applies to persons accused of or sentenced for criminal acts committed in connection with aggression, rebellion or armed conflict between 17 August 1990 and 23 August 1996. Criminal investigations or proceedings related to such acts were to be cancelled and any detained persons to whom the amnesty applied were to be released. The legislation exempted from its coverage alleged perpetrators of war crimes.

23. According to the Government, after coming into force, the amnesty law was applied immediately to 96 persons who were released from detention or imprisonment. However, as noted in my previous report, 27 persons were rearrested immediately or within days of their release, apparently in some cases being charged with war crimes in relation to the same acts for which they had previously been held. As of 27 January 1997, three of these persons had subsequently been re-released. The Security Council, in its presidential statement of 20 December 1996 (S/PRST/1996/48), expressed deep concern at the reports that the amnesty law was not being implemented in a fair and equitable manner.

24. In the Region at present administered by UNTAES, the application of the amnesty law continues to cause widespread concern among the Serb population. At the time of writing of the present report, the Croatian authorities were preparing a definitive list of persons believed by them to be in the Region and who, in the eyes of the Ministry of Justice, are not covered by the amnesty law. All those not on the list may then consider themselves as amnestied. In recent days there have been several unofficial lists circulating in the Region. At the request of UNTAES, on 27 February, the Deputy Minister of Justice of Croatia publicly announced that such lists had been prepared by unauthorized persons, had not been prepared by the Government or the judiciary and were not valid. He stated that the final list of war crimes suspects would be released as soon as possible.

25. The recent arrest on war crime charges of a returning Croatian Serb in former Sector South indicates that the detention and prosecution situation remains unresolved. The Croatian Government has a clear interest in detaining and prosecuting persons reasonably suspected of war crimes. However, appeals have been made to the Government, including by the Special Rapporteur of the Commission on Human Rights, to finalize its list of war crime suspects on the basis of existing evidence, to remove uncertainty and ensure that arbitrary arrests are not made among Serbs returning to Croatia.

26. An additional concern related to detention has recently arisen in connection with the Lora military prison at Split, where 18 persons are reportedly being held by Croatia as prisoners of war in contravention of the Government's commitments under the General Framework Agreement on Peace in Bosnia and Herzegovina (annex 1.A, article 9).

VI. LEGAL AND OTHER PROTECTIONS FOR THE CROATIAN SERB POPULATION

27. The situation of legal protection for Croatian Serbs in Croatia, as well as for all minorities, remains essentially as described in my previous report. The Republic of Croatia was formally admitted as the fortieth member of the Council of Europe on 6 November 1996, and the Government has signed the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, accepting the competence of the European Commission and the European Court of Human Rights. Croatia also signed the Framework Convention for the Protection of National Minorities and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. A working group

established in September 1996, composed of government representatives and independent experts, continues its examination of the compatibility of Croatian law with the European Convention on Human Rights and its Protocols.

28. The Government's decision of September 1995, suspending certain provisions of the Constitutional Law on Human Rights, remains in effect. As noted in previous reports, the Government maintains that the suspension has not affected core provisions of Croatian law relating to minority rights. In an aide-mémoire of 15 November 1996, the Government advised that, in order "to assure the full compliance and compatibility of the provisions of the Constitutional Law with relevant universal and regional instruments on minority rights standards", it had established a working group for the revision of the Constitutional Law on Human Rights, which will cooperate closely with the Council of Europe's Commission on Democracy through Law (the Venice Commission).

29. The Government is continuing its cooperation with the Special Rapporteur on Human Rights in the former Yugoslavia, Ms. Elisabeth Rehn, who visited the country between 16 and 22 February 1997. Croatia is also cooperating with the Organization for Security and Cooperation in Europe, with which it concluded in 1996 a memorandum of understanding for a long-term monitoring mission in the country. Mission offices have been established in Zagreb, Vukovar and Knin. The mission is concerned with a variety of issues, including conflict prevention and confidence-building.

30. At the request of the Government of Croatia, the United Nations High Commissioner for Human Rights/Centre for Human Rights carried out an assessment of needs for possible projects of technical cooperation in the field of human rights. The assessment report was submitted to the Government on 24 February 1997 and may be expected to lead to concrete projects for the protection of human rights in Croatia.

31. In the domestic sphere, the Croatian Ombudsman has made visits during the last several months to the former Sectors for the purpose of establishing contacts with different organizations and with local authorities. The Government advises that regional offices of the Ombudsman are being opened in the main cities and towns of most counties. Some observers have expressed concern that the Ombudsman has so far made little progress in publicizing his office and issuing recommendations.

32. The Security Council has by its presidential statement of 31 January 1997 (S/PRST/1997/4) already taken note of the letter of the Croatian Government dated 13 January 1997 (S/1997/27, annex) on the completion of the peaceful reintegration of the Region of Eastern Slavonia, Baranja and Western Sirmium, which has important implications for the entire country. The letter contains important confidence-building provisions for the Croatian Serb minority, including an assurance that Croatian Serbs displaced to the Region no later than 15 January 1996 (the start of the UNTAES mandate) could vote in elections either at their current place of residence or at the location where they resided before the war, as well as guarantees for minimum political representation at the national and local levels and for cultural and educational autonomy.

VII. COOPERATION WITH THE INTERNATIONAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

33. According to information received from the Office of the Prosecutor, Croatia's cooperation with the International Tribunal continues to be unsatisfactory. While Croatia repeatedly asserts its willingness to provide assistance to the Prosecutor, the Office of the Prosecutor has been able to make little progress at the working level and still experiences long delays in many aspects of its engagement with relevant authorities. Requests for assistance submitted in June, September, October, November and December 1996 remain outstanding, and it is apparent that for some of these requests no steps have yet been taken by the ministries concerned to initiate the necessary action. The appointment, after months of delay, of the Head of the Department for Relations with the Tribunal has not improved matters. For example, despite repeated inquiries and having raised the matter during her official visit to Croatia in January 1997, the Prosecutor has been unable to obtain information about the health of Mr. Zlatko Aleksovski, who was indicted and arrested and is currently in a Croatian hospital awaiting his transfer to The Hague for trial.

34. In relation to the upcoming trial of General Tihomir Blaskic, the Prosecutor obtained from a judge of the Tribunal a formal subpoena and order for the production of documents in the possession of the Croatian authorities. On 19 February 1997, the Ambassador of Croatia appeared before the judge. While again repeating Croatia's willingness to cooperate with the Tribunal, he failed to deliver any of the material concerned but instead stated an objection to the legality of the orders. The orders have now been suspended temporarily, pending the production of the documents by voluntary arrangement in response to a new request from the Prosecutor. That same week, Croatia wrote to the Prosecutor taking exception to another request for assistance and challenging its scope.

35. No further arrests of accused persons have occurred, and Croatia has informed the Prosecutor that no person indicted by the Tribunal is on Croatian territory. Except in one of the outstanding cases, however, Croatia has not formally reported to the Registrar of the Tribunal, as required by the Tribunal's rules, the reasons for its inability to execute warrants of arrest transmitted to its authorities.

VIII. OBSERVATIONS

36. Security conditions for Croatian Serbs living in the former Sectors, most of whom are elderly, continue to be unsatisfactory, particularly in the area around Knin. Although there is a significant police presence throughout the region, the authorities have generally been ineffective in restoring a climate of law and order. As for investigations of past violations of humanitarian law and human rights, while some progress has taken place regarding more recent incidents, major crimes which occurred at or near the time of Croatia's military operations in the summer of 1995 remain for the most part unresolved.

37. Difficult living conditions for remaining Serbs have been eased considerably during the past winter by intensive humanitarian programmes conducted by international organizations in cooperation with the Government of

Croatia and the Croatian Red Cross. Continuing support for these programmes will be an important need in the coming months. Positive developments have included the provision to virtually all remaining Serbs of necessary identity documents and restoration of some services including electricity. Many elderly Serbs remain isolated and vulnerable, however. The region's continuing economic stagnation gives further cause for concern, affecting Serbs and Croats alike.

38. Despite the 1996 Agreement on Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia, there has been little progress with regard to the return of younger relatives of elderly Croatian Serbs remaining in the area. While more than 14,000 persons have received Government permission to return to the country, less than a quarter of them, mostly additional elderly Croatian Serbs, have returned to the former Sectors themselves. UNHCR's programme to arrange the return of younger relatives of extremely vulnerable individuals has made almost no progress, owing to the slow response of the Government. With the resettlement in the region of tens of thousands of Croat settlers, mostly refugees from Bosnia and Herzegovina, its demography has been changed substantially. The situation has been compounded by the failure of the authorities to resolve the property issue, leaving many would-be returning Croatian Serbs without access to their homes.

39. Regarding the International Tribunal, there remain strong grounds for concern that the Government is withholding its full cooperation. The Office of the Prosecutor reports that the Government has failed to provide requested assistance and information. No further arrests of accused persons have occurred, and Croatia has informed the Prosecutor that no person indicted by the Tribunal is on Croatian territory.

40. International observers have noted the hostility which continues to characterize inter-ethnic relations in the former Sectors, as when Croatian Serbs attempting to seek government assistance through local officials are turned away with derogatory comments based on their national origin. It is therefore clear that if there is to be genuine improvement in the disturbing situation in the former Sectors, efforts by both international and local organizations to promote confidence and reconciliation will continue to be needed for the foreseeable future.

Notes

[1] International observers had estimated the total number of killings which had taken place in the former Sectors in circumstances unrelated to the military actions of August 1995 to be at least 120 (see S/1995/1051).